

Abstract Superficies solo cedit

The topic of the presented diploma thesis is the principle of superficies viewed from its historic development and its place in current law. The principle stipulates that whatever is found on a land or has arisen from it, becomes parts of it. The superficies principle has been in employment since ancient Rome and has been reintroduced in our legal system after the recodification of private law in 2012

The thesis begins with the historical development of the superficies principle not only in Roman law, but also in the Czech lands, especially with its 1811 AD codification in AGBG. The historical development is followed by a brief description of the departure from the superficies principle following political and societal changes in post-war Czechoslovakia. The denial of the superficies solo cedit principle survived until the recodification of private law in 2012 by act n. 89/2012 Sb, of civil code.

The core part of the thesis analyzes the superficies principle in the Civil Code and related statutory instruments, especially those regulating the cadastre problematics, as this area is most impacted by the principle of superficies. Based on a theoretical explanation of the superficies principle, the thesis presents some practical impact of its application on the cadastre and its records. Some questions which have arisen from the application of the superficies principle and have not been satisfactorily addressed yet, are mentioned as well.

The thesis also contains an international comparison of the application of the superficies principle. Germany has been chosen for the comparison mainly for the fact that German Civil code served as one of the sources of inspiration for the recodification of Czech private law. The comparison shows that the principle is applied similarly, but not equally. Similarities are found in the aspect that neither legal system clearly defines private law terms such as land or building even though both terms are pivotal for the principle of superficies. Contrary to Czech Civil Code, the principle of superficies is in Germany violated more broadly, e.g. through various forms of right of building, regulated by special statutory instruments, or by a so-called contract of complex, which is a term not found in Czech law.

Key words: superficies solo cedit, real estate, land register,